



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C., 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

July 22, 2021

Ms. Jennifer Gadd Edwards
6445 Rock Forest Drive, Apt 107
Bethesda, Maryland 20817

RE: Request Number: EPA-2021-001392 – Interim Production of Records

Dear Ms. Edwards:

This letter concerns the above referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency's (EPA) Freedom of Information Office, in which you are seeking documents and communications as follows:

1. Documents between January 12, 2009 and November 30, 2011 relating to:
 - a. The Environmental Settlement Agreement or the settlement of the claims asserted in the Bankruptcy Proceeding;
 - b. Valuation of any claims or damages asserted in the Bankruptcy Proceeding;
 - c. Expected and/or actual costs for cleanup of Covered Sites; and
 - d. Concerning the Agency's evaluation of the range of amounts Tronox should pay to discharge claims under the Environmental Settlement Agreement, including any analysis under any settlement guidelines Agency employs from time to time in similar cases. Such analysis may include a multiplier of the projected CERCLA liability; and
2. Communications between January 12, 2009 and November 30, 2011 relating to:
 - a. The Environmental Settlement Agreement or the Bankruptcy Proceeding exchanged between any Agency representative and Tronox; and
 - b. The Environmental Settlement Agreement or the Bankruptcy Proceeding exchanged among any of the following persons: Robert William Yalen (DOJ), Robert G. Dreher (DOJ), Alan Tennenbaum (sic) (DOJ), Katherine Kane (DOJ), Cynthia Giles (EPA), Craig Kaufman (EPA), Lynne Davies (EPA), Frederick S. Phillips (EPA), Marcello Mollo (EPA), and Erica H. Pencak (EPA).

In January 2021, you agreed to limit the request to electronic records only and provided examples of the type of documents you were interested in.

Today's production is producing 71 electronic records. The EPA is producing 42 documents in full and 29 redacted documents. The information redacted is under Exemption 4 and Exemption 6 of FOIA. Exemption 4 protects "trade secrets and commercial or financial information obtained from a person that is privileged or confidential." This exemption is intended to protect the interests of both the government and submitters of information. Exemption 6 protects personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. See Section 552(b)(6) of FOIA.

The EPA is withholding 78 documents in full under Exemption 5 of FOIA. Exemption 5 exempts from disclosure information that would not be available to another party in litigation. This includes information subject to the deliberative process privilege (internal, pre-decisional, and deliberative information which would harm Agency decision making if released), attorney-client privilege (confidential communications between an attorney and client concerning legal advice), and attorney work product privilege (documents prepared by or at the direction of an attorney in anticipation of litigation). § 552(b)(5).

The EPA expects its next and final production of responsive correspondence by October 31, 2021. The Agency continues to process your request, and it is not being closed at this time. When your request is closed, you will receive information concerning your appeal rights for any part of the Agency's response. Please know that you can reach out to EPA's FOIA Public Liaison or the Office of Government Information Services for assistance with your request as well.

If you have any questions concerning this response, please contact Antoinette Powell-Dickson of my staff at 202-564- 5136.

Sincerely,

Kenneth Patterson
Director
Regional Support Division
Office of Site Remediation Enforcement